

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6036

BILL NUMBER: SB 2

NOTE PREPARED: Jan 11, 2013

BILL AMENDED: Jan 10, 2013

SUBJECT: DNA and Arrestees.

FIRST AUTHOR: Sen. Zakas

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill has the following provisions:

- A. It requires every person arrested after June 30, 2013, for a felony to submit a DNA sample.
- B. It provides for the expungement of a DNA sample taken from the person if the person is acquitted of all charges, the person's conviction is reversed, or the case is dismissed.
- C. It increases the DNA sample processing fee from \$2 to \$4.
- D. It makes conforming amendments.

Effective Date: July 1, 2013.

Summary of NET State Impact: (Revised) LSA assumes that these new samples would be analyzed in-house by the Indiana State Police (ISP). The following expenditures are estimated for ISP for FY 2014 through FY 2017. Revenue generated by the increased DNA Sample Processing Fee should cover these added costs in each year after FY 2014.

Summary of New Costs and Revenues in \$M				
	FY 2014	FY 2015	FY 2016	FY 2017
In-House Expense*	\$1.220	\$0.990	\$0.990	\$0.990
Additional Revenue (in \$M)	\$1.16	\$1.16	\$1.16	\$1.16
Net Effect	(\$0.06)	\$0.17	\$0.17	\$0.17
*Based on average of high and low estimates in state expenditures				

Explanation of State Expenditures: (Revised) *Summary- DNA Sampling:* Current law requires offenders *convicted* of a felony after June 30, 2005, to provide a DNA sample to the Department of Correction (DOC), the county sheriff, or the agency supervising the individual. This bill requires any person *arrested* for committing any felony after June 30, 2013, to provide a DNA sample. LSA estimates the following additional expenditures for ISP for FY 2014 through FY 2017, assuming that these samples are analyzed in-house by ISP.

The added costs are due to the new staff, added materials and test kits, and new equipment needed to analyze and process the added samples.

Cost Components (in \$M)				
	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
Staffing Costs	\$0.22	\$0.22	\$0.22	\$0.22
Processing and Analysis	\$0.73	\$0.73	\$0.73	\$0.73
Equipment	\$0.23			
Expungement	<u>\$0.04</u>	<u>\$0.04</u>	<u>\$0.04</u>	<u>\$0.04</u>
	<u>\$1.22</u>	<u>\$0.99</u>	<u>\$0.99</u>	<u>\$0.99</u>

(Revised) *Additional Details-*

Staffing Costs for Analysis and Processing – ISP anticipates needing two additional forensic scientists and a technician to analyze and process the additional DNA samples. The estimated costs for these new staff are shown below.

Costs of New Staff to Process DNA Samples				
	<u>Number</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Forensic Scientist Technician	1	\$44,800	\$21,164	\$65,964
Forensic Scientist	<u>2</u>	\$55,000	\$23,432	<u>\$156,864</u>
Totals	3			\$222,828

Materials and Kits for Processing and Analysis – Under current practice, ISP receives DNA samples from both county jails and DOC facilities. The felony offenders who are in county jails will be either placed on probation or in community corrections programs. ISP currently contracts with Work Comp Management Services to collect the samples at some of the county sites. The State Police work with the staff at DOC's intake units to obtain the samples for processing.

The following table describes the cost components involved in DNA analysis.

Cost Components		
<u>Component</u>	<u>Comments:</u>	<u>In-House</u>
Specimen Kits and Shipping	Kits are used to collect specimens from all persons arrested and shipped to laboratory	\$6
Analysis	At the laboratory, staff examine and discard duplicates, and analyze and type new specimens	\$20

The following table presents the costs to collect, ship, and analyze these added samples if the work is performed by the Indiana State Police. The low range assumes a 100% increase in samples, while the high range assumes a 150% increase in samples. (See *Background Information* for more information on how these projections were made.) LSA used an average of \$730,000 for the costs of processing and analysis.

Cost Range for Processing New Samples for Persons Who Are Arrested in First Year If NEW Work Is Performed In-House									
<u>Range</u>	<u>DNA Samples Received</u>		<u>DNA Kits and Shipping</u>		<u>Samples Processed</u>		<u>Analysis</u>		<u>Cost</u>
Low	31,402	x	\$6.00	+	19,647	x	\$20.00	=	\$581,352
High	47,103	x	\$6.00	+	29,471	x	\$20.00	=	\$872,038
Note: See <i>Background Information</i> for more explanation of low and high ranges									

Equipment – ISP would need new equipment to process the additional DNA samples. The added costs would be a one time \$230,000.

Expungement – Besides the costs for collection and analysis, the cost to expunge the record of DNA samples of persons who were arrested and whose case was either acquitted or dismissed would likely increase. ISP reports that very few DNA samples are currently expunged because most convictions are not overturned on appeal. Since arrests are not as likely to lead to a conviction, it is likely that ISP will need to spend more time expunging the paperwork and destroying the samples.

To estimate the percentage of cases that might be expunged, LSA used the percentage of all felony cases that were filed in the state court system in CY 2011 and later dismissed and the acquittal rates published by the Bureau of Justice Statistics for felony cases in the 75 most populous counties in the United States. An estimated 20% of all arrests will be either dismissed or acquitted. The total number of DNA samples that would need to be expunged could be between 16 and 25 each day.

A person who has been arrested would only be permitted to request that the samples be expunged if the person is not charged, the person was acquitted of all charges, the conviction on which the authority for inclusion is based has been reversed, or the case was dismissed.

Annual Number of New DNA Arrestee Samples Expunged									
	New Arrests		Percent of Cases Expunged		New Arrestee Samples Expunged		Working Days Per Year		Expungements Per Day
Low	19,647	x	20%	=	3,929	÷	250	=	16
High	29,471	x	20%	=	5,894	÷	250	=	24
Note: See <i>Background Information</i> for more explanation of low and high ranges.									

ISP would likely need one additional clerical assistant to assist in destroying the arresting documents and other supporting paperwork or technicians to destroy the DNA samples.

Costs of New Staff to Process DNA Samples				
	Number	Salary	Benefits	Total
Clerical Assistant	1	\$26,403	\$17,074	\$43,477

Effect on the Department of Correction: DOC currently collects DNA samples of first-time offenders when they are committed to DOC facilities. Men are committed to the Reception Diagnostic Center, while women are committed to the Rockville Correctional Facility Intake Unit. Since DNA samples will now be collected at the time of a felony arrest, this bill would reduce the responsibilities for staff at these two facilities.

(Revised) *Background Information: Estimating the Added Samples:* LSA used the average number of DNA samples that ISP received and processed between CY 2008 and CY 2012 to project the new samples that would need to be typed and processed and to determine the added costs.

DNA Samples Received and Processed by Calendar Year						
DNA Samples That Were:	2008	2009	2010	2011	2012 *	Average
Received	35,342	32,644	32,037	28,732	28,254	31,402
Processed	22,475	20,509	19,544	18,198	17,510	19,647
*Estimated based on Jan 1 through Oct 31.						

At LSA's request, the Indiana State Police surveyed nine states that have added DNA arrestee language to their statutes since 2003. Three of these states, North Dakota, South Dakota, and California, now require any person arrested for any felony to submit a DNA specimen. Based on their experience and on the reported felony filings in the 2011 *Indiana Judicial Report*, LSA projects that the number of DNA samples that the ISP will receive and be required to process will increase between 100% and 150%.

Based on the five-year average shown in the previous table, the following table shows projections of these added samples.

<i>New DNA Samples to be Received and Processed</i>			
		Percentage Increase in Samples	
DNA Samples That Are:	5-Year Average	100%	150%
Received	31,402	31,402	47,103
Processed	19,647	19,647	29,471

Explanation of State Revenues: (Revised) *DNA Sample Processing Fee*- The DNA Sample Processing Fee is increased from \$2 to \$4 by the bill, and the revenue is projected to increase by \$1.16 M. This fee is assessed on any person who is found guilty of a crime (felony or misdemeanor), an infraction, or an ordinance violation. LSA projects that this revenue will increase in the first year because this fee applies to any person who is convicted or ordered to pay the fee beginning July 1, 2013, based on the fee's revenue history between CY 2008 and 2012. The added fee revenue would be deposited into the DNA Sample Processing Fund.

Revenue Collected from DNA Sample Processing Fee			
FY	Revenue	Fee Amount	Average Revenue (In \$ Millions)
2008	\$1,109,818	\$2.00	\$1.16
2009	\$1,251,797	\$2.00	
2010	\$1,338,113	\$2.00	
2011	\$1,090,692	\$2.00	
2012	\$1,019,552	\$2.00	

Explanation of Local Expenditures: (Revised) *Added Collection Costs for County Sheriffs* – County sheriffs collecting the samples would incur additional costs to train staff to collect samples and ensure that the chain of evidence is not broken. Sheriff staff collect saliva from an arrested person by placing a cotton swab in the arrested person's mouth.

Explanation of Local Revenues:

State Agencies Affected: Indiana State Police; Department of Correction

Local Agencies Affected: County Sheriffs; Trial courts, local law enforcement agencies

Information Sources: Kristine Crouch, CODIS Administrator, ISP; *Indiana Judicial Report, 2011*; *Indiana Handbook of Taxes, Revenues, and Appropriations, 2012*;

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